IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3845 OF 2006

Ajay Babulal Shah ..... Applicant.

V/s

The State of Maharashtra
and Ors. ..... Respondents.

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Mr. U.P. Warunjikar for the applicant.

Mrs. M.M. Deshmukh, APP for the State.

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CORAM: V.M. KANADE, J.
DATE : 5th October, 2007

P.C.:

1. Applicant is challenging the order passed by the Trial Court whereby the Trail Court was pleased to permit the original complainant to produce xerox copy of the bank memo as a secondary evidence at the fag end of the trial when the matter was kept for arguments.

2. The learned Counsel appearing on behalf of the applicant submits that though the case was pending for a period of eight years, original document was not produced and, after the matter was kept for final arguments, xerox copy of the said document was allowed to be brought on record by the Magistrate. He submitted that, firstly, there was a gross delay in filing this application and, secondly, no

reasons have been given by the Trial Court for accepting the secondary evidence.

3. In my view, so far as delay is concerned, the complainant had explained the delay in his application. This explanation has been accepted by the Trial Court and, therefore, the said submission on delay cannot be accepted. So far as the acceptance of secondary evidence is concerned, discretion vests with the Trial Court to accept the secondary evidence in the facts and circumstances of each case after accepting the explanation given by the complainant.

4. I do not see any reason to interfere with the said order. Applicant, however, may make his submission on probative value of the said document which is produced by the complainant and the said objection may be considered by the Trial Court. Application is accordingly dismissed.

(V.M. KANADE, J.)